

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

July 3, 1989

ALL COUNTY LETTER NO. 89-60

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: ESTABLISHING THE RELATIONSHIP BETWEEN CARETAKER AND CHILD

REFERENCE: 40-115.2 - EXPLORATION OF ELIGIBILITY
40-157.1 - PRINCIPLES OF GATHERING EVIDENCE
40-157.2 - METHODS OF GATHERING EVIDENCE
41-403.2 - PRELIMINARY DETERMINATION OF THE PERSON
PRESUMED TO BE THE LEGAL PARENT
42-111.1 - AFFIDAVITS
44-203.1 - ELIGIBLE CHILDREN
44-203.2 - CARETAKER RELATIVE

The purpose of this letter is to explain how the AFDC regulations should apply when establishing the relationship of the caretaker relative to the child in their care. The focus is on three issues: (1) paternity verification when the parents of the potentially eligible child are not legally married; (2) establishing eligibility when the parent is an undocumented alien; and (3) establishing eligibility when the caretaker relative is not a parent (e.g., an aunt, uncle or grandmother). Hopefully, the letter will dispel recent confusion and misunderstandings about these issues.

GENERAL INFORMATION

Basically, in order to be eligible for aid, the caretaker relationship must be established. MPP Section 44-203.211 requires the County Welfare Department to review the actual circumstances in each case to determine who exercises care and control of the child. In addition, MPP Section 44-203.115 requires that the child must be living with an appropriate caretaker relative. In most situations, the birth certificates of the child and the parent or other relative, as appropriate, will establish the relationship between the caretaker and the child. However, if birth certificates are not available, the County must rely on a number of sections in the regulations, including MPP Sections 40-115.22 (exploring eligibility) and 40-157.2 (gathering evidence) in order to establish the relationship. The County may also use MPP Section 42-111.1(k) (affidavits) as a "parallel" process in obtaining third-party verification from other individuals who may be knowledgeable of the relationship between the child and caretaker. In addition, as a guide we suggest referring to QC Manual Section

3532 which lists types of primary and secondary evidence that would be acceptable to establish this relationship (copy attached).

As specified in MPP Section 40-157.14, when evidence is conflicting, inconsistent or incomplete, the investigation shall be pursued to the point that the preponderance of evidence supports the determination regarding the applicant's eligibility.

PATERNITY VERIFICATION

In regard to paternity cases, MPP Section 41-403.2 provides, in part, that "where there is a question as to parentage concerning either parent, the matter should be referred to the District Attorney for resolution". This section goes further to state that "(1) in any case where the child is conceived out of wedlock, and there is no prior determination of paternity, the matter shall be referred to the District Attorney". Therefore, these rules require that paternity be established before any definitive conclusion can be reached with regard to the basic "living with relative" requirement, particularly with regard to paternal relatives.

However, as long as there is no conflicting evidence, there is no basis in regulations for denying aid to a child because the relationship to the caretaker has not been established by the District Attorney. The County Welfare Department should accept a sworn statement, and aid the child pending the paternity determination by the District Attorney. When there is conflicting information, regulations cited above require Counties to pursue the investigation. The decision to approve or deny shall be based on the preponderance of evidence.

UNDOCUMENTED ALIEN AND NON-PARENT CARETAKER


When the caretaker relative is an undocumented alien without identification for him/herself, or a non-parent (such as an aunt, uncle or grandmother), the County must also verify that this individual is, in fact, an appropriate relative. Alone, the child's birth certificate is not sufficient.

Again, the County would use the above-cited regulations including MPP Section 40-157.211 (gathering evidence) and MPP Section 40-115.22 (exploring eligibility), in order to determine whether this individual meets the definition of caretaker relative. Counties must document in the case record the steps taken to obtain verification.

A sworn statement is considered sufficient evidence to aid the child in the absence of any conflicting evidence (40-115.2). In order to avoid Quality Control errors, Counties must document in

the case record the steps taken to verify the relationship and the reasons the actual verifying documents are not available. When information is conflicting, Counties must pursue the investigation to the point that the preponderance of evidence supports approval or denial of the application.

If you have any questions or need further information regarding establishing caretaker/child relationship, please contact Karen Maderos of the AFDC and Food Stamp Policy Implementation Bureau at (916) 324-2009 or ATSS 454-2009. Questions which are specific to the quality control function should be directed to the appropriate Quality Control District Office (see attached listing).



ROBERT A. HOREL
Deputy Director

Attachments

cc: CWDA

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Primary Evidence

For parentage:

1. Birth certificate
2. Adoption papers or records
3. Indian census records
4. Bureau of Vital Statistics or local government records of birth and parentage
5. Hospital or public health records of birth and parentage
6. Baptismal records of birth and parentage. (The age at time of baptism may vary according to the practice of the particular religion or denomination.)
7. Court records of parentage
8. Court child support records
9. Juvenile Court records
10. Immigration and Naturalization Service (INS) records

For other specified relationships:

1. Birth certificates
2. Adoption papers or records
3. Marriage license/certificate
4. Divorce papers
5. Indian census records
6. Hospital or public health records of birth and parentage
7. Bureau of Vital Statistics or local government records of birth and parentage

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8. Court records of parentage
9. Baptismal records of birth and parentage
10. Juvenile Court records
11. Court child support records

Secondary Evidence (See special evidence requirements discussed above.)

For both paternity and other specified relationships:

1. Church records of parentage and relationship (including a statement from a priest, minister, rabbi, etc.)
2. Family Bible
3. Health care records maintained by a hospital, clinic or physician
4. Child care center records
5. Voluntary social service agency records
6. Insurance records
7. School records
8. Census records
9. Paternity records maintained by the Office of Child Support Enforcement (IV-D agency)

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CITIZENSHIP AND ALIENAGE -- ELEMENT 130

45 CFR 233.50, 233.51

In order to be eligible for assistance, an individual must be either (1) a U.S. citizen, or (2) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the U.S. under color of law, e.g., individuals with refugee status.

Quality Control Branch
List of District Offices

Sacramento District Office

744 P Street, M.S. 19-18
Sacramento, CA 95814
(916) 322-2164/ATSS 492-2164

Mailing Address:
P.O. Box 160600
Sacramento, CA, 95816-0600

Manager: Chuck Malone

Oakland District Office

317 9th Street, RM 300
Oakland, CA 94607
(415) 464-1302/ATSS 561-1302

Mailing Address:
P.O. Box 2081
Oakland, CA 94612

Managers: Glen Brooks
Pat Patridge

Los Angeles District Office

107 South Broadway, Rm 7123
Los Angeles, CA 90012
(213) 620-5976/ATSS 640-5976

Managers: Hector Hernandez
Ron Morgan

Fresno District Office

2550 Mariposa Street, Rm 3088
Fresno, CA 93721
(209) 445-5215/ATSS 421-5215

Manager: Pete Flores

San Diego District Office

8745 Aero Drive, Suite 303
San Diego, CA 92123
(619) 237-6896/ATSS 631-6896

Manager: Joanne Einhorn